

1 BRIGGS LAW OFFICE
2 JEFFREY C. BRIGGS (No. 100369)
3 6464 Sunset Blvd.
4 Suite 715
5 Hollywood, CA 90028
6 Phone: (323) 461-5400
7 Fax: (323) 908-7275
8 Email: jbriggs@jbriggslaw.com

9 Attorney for Respondent Hollywood Media
10 District Property Owners Association

11 SUPERIOR COURT OF THE STATE OF CALIFORNIA
12 COUNTY OF

13 ADRIAN RISKIN,

14 Petitioner,

15 vs.

16 HOLLYWOOD MEDIA DISTRICT
17 PROPERTY OWNERS
18 ASSOCIATION,

19 Respondent.

CASE NO. BS 166075

(Hon. Mary H. Strobel, Dept. 82)

RESPONDENT'S BRIEF IN OPPOSITION TO
THE PETITION; DECLARATIONS OF LISA
SCHECHTER AND JEFFREY BRIGGS

(Respondent's Supplemental Administrative Record
filed concurrently)

Date: November 28, 2017

Time: 9:30 am

Dept: 82

20 Respondent Hollywood Media District Property Owners Association
21 ("Respondent") respectfully submits this brief and supporting declarations in
22 opposition to Petitioner Adrian Riskin's ("Petitioner") Petition for Writ of Mandate
23 ("Petition"). Respondent's Supplemental Administrative Record (pages 0073-
24 0156) is filed concurrently herewith.

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I

SUMMARY OF ARGUMENT OPPOSING PETITION

The sole issue presented by the Petition is whether Respondent has done a reasonable search for public records and provided all it has. The Public Records Act is not a civil litigation “discovery” device, and it is not a document retention policy. Respondent has done several reasonable searches for the requested records at issue—and dozens of reasonable searches in response to Petitioner’s numerous Public Records requests of which he does not complain—and produced hundreds if not thousands of pages of records in response to them all.

But now Petitioner contends that a good-faith further search’s yield of a few pages of innocuous printed-out emails demonstrates that Respondent’s prior searches were not reasonably thorough, justify the entire Petition, and merit an award of attorney fees. Instead, this contention proves that the sole *reason* for the Petition from the outset has been its use in Petitioner’s campaign to wield the Public Records Act like an axe to so burden Business Improvement Districts like Respondent with time and expense that they will be unable to function.

Respondent has provided all requested records after reasonably searching for them, and then after searching beyond what is required. This Court should not sanction Petitioner’s use of the Public Records Act as a weapon. Respondent has done all it is required to do and should be reimbursed its costs for Petitioner’s bad faith misuse of the Public Records Act.

II

RESPONDENT CONDUCTED THE REQUISITE REASONABLE SEARCH
AND PRODUCED ALL RECORDS IT HAS

Much of Petitioner’s argument suggests that his Petition is about Respondent’s “refusal” to provide public records it possesses. (Petitioner’s Opening Brief at p. 6, lines 24-25.) Petitioner’s principal claim, however, acknowledges that Respondent contends it provided Petitioner all requested records

1 Respondent has; Petitioner contends simply that “*there must be more*” and that
2 Respondent must be hiding something. Respondent’s provision of vast quantities
3 of records in response to Petitioner’s *many* requests proves the contrary.

4
5 A. The Public Records Act Requires Only a Reasonable Search for Substantive
6 Records.

7 As background, it is important to recognize what the Public Records Act is
8 *not*. It is not a Code of Civil Procedure discovery device requiring extraordinary
9 measures to preserve and locate electronically stored material. The Public Records
10 Act does not, for example, require a public agency to engage technical expertise to
11 extract records that might still be present on a computer hard drive even after the
12 user has deleted them from her desktop and emptied her on-screen wastebasket—
13 and Petitioner makes no contention that such extraction effort is required of
14 Respondent here. As Petitioner himself acknowledges, “the main issue is the
15 *reasonableness* of Respondent’s searches and responses.” (Petitioner’s Opening
16 Brief, p.6 line 27)(*emphasis added*.)

17 Nor does the Public Records Act prescribe any special document *retention*
18 policy. Thus, an agency subject to the Public Records Act is not required by that
19 Act to retain any record, let alone emails which so often merely are ephemeral. The
20 Act provides no cause of action for failing to maintain any record that might be
21 subject to the Act at the time of its creation—if the agency possesses a non-exempt
22 public record it is required to provide it; if it does not possess the record, the Act
23 does not apply. And again, Petitioner does not contend otherwise.

24 Finally, not every record created or possessed by a public agency is a “public
25 record.” Only a writing that “substantively relates” to the conduct of public
26 business is a “public record” under the Act. City of San Jose v. Superior Court of
27 Santa Clara Cnty., 2 Cal.5th 608, 619, 389 P.3d 848, 214 Cal.Rptr.3d 274 (Cal.,
28

1 2017).

2
3 B. Respondent Performed a Reasonable Search

4 Together, the two Public Records Act requests at issue here sought “all”
5 emails to and from Respondent’s Executive Director Lisa Schechter over a 7 month
6 period, September 2015-March 2016. (Petitioner’s AR Exs. A and B.) Ms.
7 Schechter did not begin work for Respondent until October, 2015 (Schechter Decl.,
8 Par. 1), thereby reducing the subject period to 6 months, and spent much of her first
9 few months touring Respondent’s Business Improvement District area (the “Media
10 District” of Hollywood) taking photographs and emailing them to herself with her
11 phone. (AR at 9:16-10:6.) During the first several months of her new job at
12 Respondent she sent and received approximately 100 emails. (*Id.*) From the outset,
13 however, she encountered problems with sending and receiving emails. (Schechter
14 Decl., Par. 2.) One solution was to delete many of her emails because the
15 photographs she had taken and sent to herself took up too much space on
16 Respondent’s limited server. (*Id.*) Problems with sending and receiving emails
17 continued, however, through the Spring of 2016. (*Id.*)

18 Consequently, that Respondent ultimately had few emails to provide in
19 response to Petitioner’s first subject request is not surprising, and certainly not
20 suspicious—Ms. Schechter was not using email much, her email system had
21 problems, and she had to delete emails in order to help solve those problems.

22 As to the second request covering the holiday season of 2015 and the early
23 months of 2016, Petitioner acknowledges that Respondent produced 1,455 emails.
24 (Petitioner’s Opening Brief, p.7 lines 13-14.) Even assuming that Petitioner’s
25 determination that “only 275” were non-duplicative and within the requested time
26 period (*id.*) is correct, that is a substantial number of emails even without taking
27 into account the ongoing problems Ms. Schechter was having with her email
28 system. All of this was explained to Petitioner’s counsel shortly after Respondent

1 completed its provision of records. (Briggs Decl., pars 2-3; Respondent's SuppAR
2 at 0080-0085.)

3 Notably, moreover, Petitioner takes no issue with the manner and method
4 Respondent used to conduct its initial searches: Nowhere does Petitioner contend
5 that Respondent used deficient search terms or failed in any other way to conduct a
6 reasonable, and reasonably thorough, initial search in response to the subject
7 requests. (*See also* Respondent's SuppAR at 0145.) And although Respondent's
8 recent re-search—conducted in good faith at Petitioner's request after the Petition
9 was filed—did find a few pages of printed-out emails to the City's "311" service
10 request website and a City Planning Department announcement in an old file folder
11 (all of which have been provided to Petitioner, also in good faith), and a few email
12 pages on a third-party's email server that are exempt under the deliberative process
13 exemption, *see, e.g., Department of Interior v. Klamath Water Users Protective*
14 *Association*, 532 U.S. 1, 8 (2001)(privilege "was developed to promote frank and
15 independent discussion among those responsible for making governmental
16 decisions"),¹ whether the few found records are "substantive" and thus public
17 records at all is open to question, they do nothing to impugn the reasonableness of
18 Respondent's initial effort (and in fact support it as nothing else was found), and
19 they certainly did not deprive Petitioner of any substantive public records for any of
20 his purposes. (Schechter Decl., pars. 3 and 4; Briggs Decl., par 4; Respondent's
21 SuppAR at 0073-0079.)

22
23 C. Petitioner's Contention That Respondent is Withholding Records is Rank
24 Speculation Unsupported by His Own Evidence

25 Notwithstanding the entirely rational and unchallenged evidentiary
26 explanation for the few emails provided in response to Petitioner's first subject

27
28 ¹ The Public Records Act, Cal. Govt. Code Sec.6254(k), exempts from disclosure any record protected by any state
or federal privilege or similar protection.

1 request, and the fact that among the thousands of emails Respondent provided in
2 response to the second subject request were at least 275 non-duplicative responsive
3 emails by Petitioner's own count, Petitioner argues simply that he believes there are
4 more and that Respondent is purposely hiding them. Neither belief is supported by
5 logic, let alone evidence. Indeed, both logic and evidence are to the contrary.

6 First, proving the mournful adage that "no good deed goes unpunished,"
7 Petitioner contends that Respondent's search was not reasonable because
8 Respondent provided *too many* records, both in terms of duplicates and in terms of
9 time period. (Petitioner's Opening Brief, p. lines 22-23.) This assertion is patently
10 absurd. Anyone who has used email is aware that "replies," particularly from a
11 number of original email recipients, create email "strings" that often contain the
12 original message along with many later different messages; anyone who has used
13 email in an office environment knows that duplicate emails and replies are
14 exchanged back and forth within and without one's own office personnel; and
15 anyone who has used email in any collaborative environment where announcements
16 of various kinds are widely shared knows that multiple emails with the same
17 material arrive all too frequently in one's inbox from many different sources. Just
18 trying to determine what truly is "duplicative" would only further slow an already
19 lengthy search and review process in light of the many months of emails Petitioner
20 was after. (Briggs Decl., par. 3.) And as to Respondent's provision of emails
21 outside the requested time period, this was done in good faith in light of Petitioner's
22 numerous and ongoing requests for emails after the two in question here, and given
23 the length of time it took Respondent to provide records. (*Id.*) Thus, this argument
24 only proves, as demonstrated later herein, that Petitioner is far more interested in
25 using the Public Records Act to cost Respondent time and money than to obtain
26 public records.

27 Petitioner also argues that Respondent must have more records than it
28 provided because it took Respondent so long to provide the many responsive emails

1 it did. This is a non-sequitur. If anything, the time Respondent took to provide
2 more than a thousand emails establishes the vast extent of Petitioner's admittedly
3 "scattershot requests" (*see* AR at 41) and the care taken by Respondent to locate,
4 review, and provide responsive records. Section 6254 of the Public Records Act
5 contains exemptions listed from "a" to "ad" proscribing disclosure of personnel
6 records, banking information, material protected by any state or federal privilege or
7 other protection, and some 27 other categories of records *not* to be provided under
8 the Public Records Act; it cannot be gainsaid that careful review, including by a
9 lawyer, is virtually mandatory in responding to a Public Records Act request.²

10 Petitioner's "delay" argument also intentionally ignores his own statements
11 to Respondent, while the requests were pending, that "I understand that the emails
12 will take a while" (AR at 41) and "Please don't worry about the delay." (*Id.*, at 55.)
13 And in a document inexplicably not provided in Petitioner's AR, Respondent
14 explained that the records were in fact sent previously, but to the wrong recipient.
15 (Briggs Decl., par. 3; Respondent's SuppAR at 0080.) Finally, this argument is
16 inconsistent with Petitioner's contention that Respondent did not take *more* time to
17 weed out what Petitioner considers to be "duplicative."

18 Petitioner next contends that Respondent must have more records than it has
19 provided because its "technical and logistical problems" in getting records to
20 Petitioner were "unreasonable." Again, the conclusion is not supported by the
21 premise—even if the premise were accurate, which it is not. Respondent's
22 technical problems in getting the records to counsel for review and then to
23 Petitioner in his requested "native format" are undisputed. (Schechter Decl., par. 2,
24 and Briggs Decl., pars. 2 and 3.) This is not a problem with which Petitioner is

25
26 ² Petitioner notes that an agency subject to the Public Records Act is required to "respond" to a request within 10
27 days, and appears to condemn respondent for taking much longer to provide records. However, the Petition asserts
28 no claim for delay, and *it could not do so*—the Act requires only a "written response" as to its intentions with respect
to providing actual records within 10 days. Cal. Govt. Code 6253(c)(response shall state when records will be
available). Here, the only relevancy of when Respondent provided records is that it shows the vast extent of the
subject requests and the care Respondent took in providing them.

1 unfamiliar in his quest to obtain every email ever sent by and to every Business
2 Improvement District in Los Angeles. (Briggs Decl., pars 6-8.) Respondent does
3 not contend these particular logistical problems led to the loss of any records.
4 (Schechter Decl., par. 2.) And it suggests nothing whatsoever about any intention
5 to conceal records—the sheer volume of what in fact *was* provided belies any such
6 suspicion.

7 Finally, Petitioner obtained Schechter emails not provided by Respondent
8 from other sources, primarily Los Angeles city employees, and he contends that this
9 shows Respondent must be hiding responsive records of its own. Petitioner's
10 alleged Perry Mason moment is, however, nothing of the sort.

11 First, it is no secret from Respondent that Petitioner has inundated not just it
12 and other Business Improvement Districts with Public Records Act requests for
13 emails exchanged with one another and with every agency in the City, including but
14 not limited to all offices responsible for administering the districts, every City
15 Council office, and the City Attorney's office itself—nobody in the City, and
16 certainly not Respondent, is operating under any illusion that an email sent once
17 upon a time to someone else having anything to do with city business of any kind is
18 not going to see the light of day as a result of Petitioner's extensive Public Records
19 Act efforts. (Schechter Decl., par. 5; Briggs Decl., 6.) Petitioner's confirmation
20 that he obtained Schechter emails from other sources outside Respondent merely
21 confirms what Respondent already knew: All of its non-exempt email
22 communications are subject to Petitioner's location and publication one way or
23 another, so there is no way to pretend they don't exist.

24 Second, as noted previously, the Public Records Act does not prescribe rules
25 for public agency document *retention*. It covers only what has to be disclosed *if*
26 *possessed*. Also as noted above, the Public Records Act is not a civil litigation
27 discovery vehicle requiring a public agency to ask others for records it does not
28 possess. Respondent already has explained what it has and why it does not have

1 more, including what was sent to third parties and which *they* may have retained but
2 which Respondent did not.

3 Furthermore, the Schechter emails Petitioner obtained from third parties
4 certainly show nothing that Respondent would have any reason to conceal.
5 Schechter emails provided to Petitioner by others (AR Ex. D and Petition Ex. L)
6 concern party invitations, cover notes for transmittals of reports and similar records,
7 and Respondent projects that are completed or abandoned—none of which is the
8 sort of thing Respondent necessarily would keep, let alone hide. (Schechter Decl.,
9 pars. 4-5.) The same is true, of course, for the few printed emails recently
10 unearthed by Respondent in a good faith above-and-beyond further search made
11 after the Petition was filed. (*Id.*)

12 Finally, and perhaps most tellingly, Petitioner *has* in fact secured Schechter
13 emails from other sources—is he suggesting that all the many others to whom he
14 sent requests for emails to and from Respondent also unilaterally decided not to
15 produce the same and still undisclosed emails, or conspired with another not to
16 provide them to Petitioner? (See Briggs Decl., par. 6.) That would be too much for
17 even the late night “Coast to Coast” alien visitor radio show audience to swallow.
18 Petitioner clearly already has all the Respondent records he has requested,
19 regardless of the source. Consequently, his Petition is moot.

20 Scant on evidence but long on speculation, Petitioner is asking Respondent to
21 prove a negative, i.e., that it has no more responsive documents to provide.
22 Respondent doesn’t have more, the evidence supports that it has been more than
23 reasonable about trying to find anything more, and the evidence is that even third
24 parties have nothing more. The only rational conclusion is that this Petition is not
25 really about getting additional records—it must be about something else altogether.
26 We now turn to the real reason behind this Petition.

III

THIS PETITION IS PART AND PARCEL OF PETITIONER'S PATTERN OF
MISUSE OF THE PUBLIC RECORDS ACT TO PUT RESPONDENT OUT OF
BUSINESS

The Public Records Act is a government agency "sunshine" law fully supported by Respondent.³ It has no objection to providing public records as and when requested. Respondent acknowledges that a requestor needs no reason to make a request, and consequently does not inquire of the reason before providing responsive records. Respondent has nothing to hide.

But in California, "[n]o one can take advantage of his own wrong," Cal.Civ.Code Section 3517, and in this case Petitioner seeks to do exactly that.

The two subject Public Records Act requests are neither the first nor the only such requests he has made to Respondent, and in fact are but a miniscule fraction of the hundreds of requests he has made since at least October 2014 to Respondent and to virtually every Los Angeles Business Improvement District and city agency having anything to do with such districts. (Schechter Decl., par. 6; Briggs Decl., pars. 6-8.) The City has been so inundated with requests that the City Attorney established strict rules for agency compliance to ensure that City services are not disrupted by staff time devoted to handling Petitioner's extraordinarily voluminous requests. (Briggs Decl., par. 8; Respondent's SuppAR at 0086-0091.) But Petitioner's design in fact *is* to cause such disruption, and especially within the Business Improvement Districts—he has opined, for example, that Business Improvement Districts unable to afford staff sufficient to meet the demands of his

³ The Public Records Act does not specifically address Business Improvement Districts, which are operated by private non-profit entities formed by property and/or business owners to assess themselves additional taxes that are 100% available to their entity for providing services in their area that the City and State cannot provide, e.g., extra public waste bins and hauling, extra street and sidewalk cleaning, safety patrols, additional street lighting, street security cameras, graffiti removal, and the like. The courts determined that private entities operating such districts are subject to the Brown Open meeting Act and the Public Records Act because cities handle the additional tax roll assessments and contract with the private entities to provide city-like services. Respondent has no objection to Public Record Act compliance, but does note that it is not the sort of government agency the law originally was intended to address.

1 Public Records Act requests are in violation of their City contracts and should be
2 refused their own assessment money. (Briggs Decl., par 9; Respondent's SuppAR
3 at 0092-0096.) Respondent alone has incurred more than \$12,000 in attorney fees
4 for advice in complying with the Public Records Act, including the necessary
5 review to ensure that exempt material is not disclosed and entirely apart from fees
6 and costs incurred in this action, to say nothing of the staff time incurred.
7 (Schechter Decl., par 7.) Some Business Improvement Districts have incurred
8 substantially more expense. (Briggs Decl., par. 7.)

9 And to what end? Petitioner would have the Court believe that he is a
10 "transparency warrior" whose internet publication of the thousands of emails and
11 other records he has obtained has resulted in great benefit to the press, scholars, and
12 the public at large. (Petition, pars. 1 and 3-6; Riskin Decl., pars. 4 and 6.) But in
13 reality he uses the material he extracts from Respondent and other Business
14 Improvement Districts to publish a blog under a pseudonym that features screeds
15 attacking anyone associated with Business Improvement Districts, including their
16 non-involved family members, as "Nazis," slavers, and white supremacists, and
17 even suggesting use of a bomb to eliminate them. (Briggs Decl., pars. 10 and 11;
18 Respondent's SuppAR at 0097-0141.) His site even misappropriates the likenesses
19 of Business Improvement District employees by putting them on coffee mugs he
20 sells on his website. (Briggs Decl., par 12; Respondent's SuppAR at 0142.) All the
21 stuff of which "transparency" in government is made and of great interest to
22 scholars and serious journalists?

23 No, "transparency" is not Petitioner's real motivation, and certainly is not his
24 motivation in this action. Instead, he seeks to use the time and costs associated
25 with compliance with a well-intentioned Public Records Act that does not
26 specifically preclude his blunderbuss blitzkrieg requests to drive Respondent and
27 similar entities out of business, including by discouraging third parties from
28 working with them for fear of coming under a similar assault on his website.

1 *Petitioner is using the Public Records Act as a weapon, not as a tool.*

2 And now he seeks to use this Petition to the same end. Aside from having
3 acknowledged his purpose to cost Business Improvement Districts precious
4 resources (Briggs Decl., par. 9; Respondent's SuppAR at 0092-0096), in this action
5 Petitioner frivolously seeks records he already has obtained and which establish, as
6 set forth above, the veracity of Respondent's position that there are no other
7 responsive records. (If it were not true, Petitioner would have found those other
8 records from other sources; he did not.) Furthermore, in taking Respondent's
9 deposition he went far afield of the subject "main issue" of "the reasonableness of
10 Respondent's searches" (Petitioner's Opening Brief, p.6 line 27) and asked Ms.
11 Schechter about the *substance* of meetings she had with City officials and actions
12 taken as a result, all as part of his "concern" that she has violated ethical constraints
13 on former City employees and presumably only to support his complaint to City
14 Ethics officials (Riskin Decl., par. 6)—*but having nothing whatsoever to do with*
15 *Public Records Act compliance.* (Briggs Decl., par. 13; Respondent's SuppAR at
16 0147-0156.) And now Petitioner seeks attorney fees because a further good faith
17 search done at his behest resulted in a few printouts of old emails to the City's
18 "311" website to report some illegal dumping and an old City Planning Department
19 notice. (Respondent's SuppAR at 0073-0079.) In this regard it is time Petitioner
20 learn another maxim of jurisprudence: "The law disregards trifles." Cal. Civ. Code
21 Section 3533.

IV

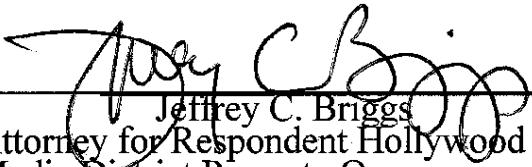
CONCLUSION

The Petition should be denied and found frivolous and Respondent should recover its attorney fees and expenses according to subsequent proof.

Respectfully submitted,

Dated: October 27, 2017

JEFFREY C. BRIGGS
BRIGGS LAW OFFICE


Jeffrey C. Briggs
Attorney for Respondent Hollywood
Media District Property Owners
Association

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DECLARATION OF LISA SCHECHTER

1. I am the Executive Director of Respondent Hollywood Media District Property Owners Association ("Respondent"), and have been since October 1, 2015. Respondent has only one other employee, my assistant.

2. From the outset of my employment at Respondent, I encountered problems with sending and receiving emails. One periodic solution was to delete many of my emails because the many photographs I had taken and sent to myself while touring the district extensively during the first months of my tenure took up too much space on Respondent's limited server. Problems with sending and receiving emails continued through the Spring of 2016, and still occasionally arise.

3. I was responsible for searching for records in response to Petitioner's Public Records Act requests. As to emails requested, I searched for various recipient addresses on my system and attempted to send them to Respondent's counsel, Mr. Briggs, for exemption review. It took several tries to manage transmission of all that I found to counsel, but I am not aware of any records lost in this process. Eventually I managed to successfully transmit records to counsel responsive to all then-pending requests and then provided more beyond the original date requested in light of the delay in handling the logistical issues. My search included various paper files that might have included printed emails, but I found none that I recall at that time. Nothing we possessed was not sent to counsel.

1 4. I recently completed yet another search, and found nothing on my system
2 other than what I previously provided. I found a few printed emails in an old file
3 folder I had no reason to keep. True copies are in Respondent's SuppAR at ____.

5 5. I am aware from talking to colleagues at other Business Improvement
6 Districts throughout the City, and City employees, that Petitioner has sought
7 records, including emails to and from me and others associated with Respondent,
8 from all of them. I do delete emails periodically, particularly notices, transmittals,
9 duplicates or near duplicates, invitations, and materials concerning completed or
10 abandoned projects if no longer useful. I am aware that third parties to whom I
11 send emails or who send me emails may have records I no longer have and may be
12 asked to provide them in response to a request from Petitioner. The emails
13 contained in Petition Ex. L and AR Ex. D are the sort I periodically will delete for
14 server space or because I have no need for them.

15 6. Respondent has received more than a dozen Public Records Act requests
16 from Petitioner (and none from anyone else), often including several subparts.

17 7. Respondent has counsel on retainer to assist in responding to Public
18 Record Act requests, particularly as to privacy, privilege, and other exemptions, and
19 has incurred more than \$12,000 in such expenses exclusive of handling this
20 Petition.
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1 I declare under penalty of perjury that the foregoing is true and correct of my
2 personal knowledge, that I am competent to so testify, and that this Declaration is
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4 executed this 27th day of October at Hollywood, California.

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8 Lisa Schechter
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DECLARATION OF JEFFREY C. BRIGGS

1. I am an attorney duly licensed to practice in California since 1981 and I am counsel for Respondent in this matter. I have served as counsel for respondent in connection with responding to Public Record Act requests and similar matters since early 2015.

2. I have assisted Respondent in handling responses and provision of records to Petitioner in response to his Public Record Act requests since early 2015. I did so with respect to Petitioner's two requests at issue in the Petition. This includes review of all potentially responsive records for exemptions under the Act, including privilege and privacy protections.

3. Respondent's efforts to transmit to me records in response to the two subject requests for my review were unsuccessful on at least two occasions, and eventually we included records beyond the dates requested because of the delay in getting petitioner the records. Little effort was made to exclude duplicates because of the many email strings that included different replies and similar minor differences, and because of the additional time that would require. On one occasion, moreover, I actually sent the records only to myself, which I did not discover until Petitioner claimed later not to have received them. True copies of my correspondence with Petitioner's counsel on this subject are at Respondent's SuppAR at 0080-0085.

1 4. At Petitioner's counsel's request, I recently asked Respondent to conduct
2 another search for records responsive to the two subject requests. A few pages of
3 printed emails were located that had not been found before. These were provided to
4 Petitioner. True copies are at Respondent's SuppAR at 0073-0079.
5

6 5. I represent 12 other Business Improvement Districts in regard to
7 petitioner's many Public Records Requests. These entities often are very small,
8 have few if any employees (several are entirely volunteer), and very tight budgets.
9 They often have old or even second-hand equipment, use individual email accounts
10 and servers, and use many different kinds of email providers. As Petitioner requires
11 electronic records to be provided in "native format," technical issues frequently
12 arise in terms of clients getting material to me for review and my getting it to
13 Petitioner thereafter. I have had many communications with Petitioner about these
14 logistical difficulties, both in respect of Respondent and almost every other of my
15 clients.
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20 6. Petitioner has made hundreds of Public Record Act requests to even more
21 Business Improvement Districts than I represent, and many more still to City
22 agencies. The volume of the requests themselves, and of the records they seek, is
23 staggering, typically involving (as here) emails over many months, or even years.
24 Requests seek all sorts of records exchanged by, between, and among the districts
25 and the City. From review of these many requests to many different entities, I am
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1 aware that what one responding party may not have is likely to be in the possession
2 of another, so there is no way to conceal records even if one were inclined to do so.

3
4 7. I am aware of Business Improvement Districts that have spent in excess of
5 \$12,000 with me or with other counsel to secure advice in connection with Public
6 Records Act requests from Petitioner.

7
8 8. The City has been so inundated with Petitioner's requests that it has had to
9 institute special procedures for handling Petitioner's requests, including limits on
10 the time its staff will spend. A true copy of the City's admonishment of Petitioner
11 is attached at Respondent's SuppAR at 0086-0091.)

12
13 9. The article at Respondent's SuppAR at 0092-0096 is a true copy of an
14 article from Petitioner's website arguing that Business Improvement Districts
15 unable to keep up with Petitioner's Public Record Act requests should be declared
16 in breach of their City contract and denied their own assessment money.

17
18 10. The article at Respondent's SuppAR at 0097-0100 is a true copy of an
19 article from Petitioner's website stating (and depicting) a bomb would be "an
20 effective, emotionally satisfying, and poetically just way to get rid of business
21 improvement districts."

22
23 11. The articles at Respondent's SuppAR at 0101-0141 are true copies of
24 articles from Petitioner's website attacking Business Improvement District
25 personnel, and their relatives, as Nazis, slavers, and white supremacists.
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1 12. The "Merchandise" page at Respondent's SuppAR at 0142 is a true copy
2 of a page from Petitioner's website using the likenesses of various Business
3
4 Improvement District personnel, and others, on coffee mugs Petitioner offers for
5 sale.

6 13. Attached to Respondent's SuppAR at 0143-0156 are true copies of pages
7
8 from Ms. Schechter's deposition transcript.

9 I declare under penalty of perjury that the foregoing is true and correct of my
10 personal knowledge, that I am competent to so testify, and that this Declaration is
11
12 executed this 27th day of October at Hollywood, California.

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Jeffrey C. Briggs

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